

AMENDED IN SENATE JULY 12, 2005

AMENDED IN SENATE JUNE 27, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1735

Introduced by Assembly Member De La Torre

February 24, 2005

An act to amend Section 53066.3 of the Government Code, relating to cable television.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as amended, De La Torre. Cable television franchises.

Existing law provides that if a city, county, or city and county elects to grant an additional cable television franchise in an area where a franchise has already been granted and where an existing cable operator is providing service or certifies that it is ready, willing, and able to provide service, the additional franchise shall require that the franchisee wire and serve the same geographical area within a reasonable time and be subject to other specified conditions.

This bill would ~~impose the same conditions if any additional state the intent of the Legislature to promote price competition, broader consumer choice, and improved customer services in the cable television franchise is granted to a public utility, a telephone corporation, or its affiliate for an area within the public utility's or telephone corporation's service area or areas marketplace.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares the following:

(a) It is the intent of the Legislature, and in the public interest, to promote price competition, broader consumer choice, and improved customer services in the cable television marketplace by removing barriers to open and competitive markets.

~~(b) Section 53066.3 of the Government Code was enacted at a time when communities in this state were predominantly served by a single cable provider and a single telephone company, each offering a single service.~~

~~(c) Since the enactment of Section 53066.3, the communications marketplace in this state has undergone a radical transformation, with the explosion of new technologies that has finally brought the objectives of competition, consumer choice, and rapid innovation close to reality in this state.~~

~~(d) Section 53066.3, as it currently exists, poses a threat to the emergence of cable competition in this state by creating a barrier to entry for telephone corporations seeking to provide competitive cable television service in this state.~~

~~(e)~~
(b) It is the intent of the Legislature, and in the public interest, that local government be given the flexibility to craft cable television franchise areas that encourage competition and best meet the needs of their residents, ~~unencumbered by how incumbent cable operators constructed their systems.~~ *residents.*

~~(f) It is the further intent of the Legislature, and in the public interest, to continue to ensure that the benefits of cable competition are brought to residents of this state without regard to income or race, and that the same public, educational, and governmental access requirements are applied to all cable television providers, including telephone corporations.~~

~~(g) It is the intent of the Legislature that telephone corporations that are granted a cable television franchise, and that provide both video service and telecommunications services, including, but not limited to, basic telephone service, over the same facilities or network, shall not fund the provision of cable service and other broadband services through increases to basic telephone service rates.~~

1 ~~(h)~~

2 (c) It is the intent of the Legislature, and it is an important
3 state interest, to continue the Legislature's long-held policy to
4 ensure that local franchising of cable television brings the
5 benefits of cable competition to all residents of this state,
6 including lower income and minority residents, and residents in
7 less-populated areas, ~~and that the comparable~~
8 ~~franchise requirements, including, but not limited to, service~~
9 ~~area, build-out and density requirements, are applied to and~~
10 ~~enforced upon all cable television franchises authorized by a~~
11 ~~franchising authority pursuant to Section 53066 of the~~
12 ~~Government Code.~~

13 SEC. 2. ~~Section 53066.3 of the Government Code is amended~~
14 ~~to read:~~

15 ~~53066.3. (a) If a city, county, or city and county elects to~~
16 ~~grant an additional cable television franchise in an area where a~~
17 ~~franchise has already been granted to a cable television operator,~~
18 ~~it shall do so only after a public hearing noticed pursuant to~~
19 ~~Section 6066, in a newspaper of general circulation as defined in~~
20 ~~Section 6000, where all of the following have been considered:~~

21 ~~(1) Whether there will be significant positive or negative~~
22 ~~impacts on the community being served.~~

23 ~~(2) Whether there will be an unreasonable adverse economic~~
24 ~~or aesthetic impact upon public or private property within the~~
25 ~~area.~~

26 ~~(3) Whether there will be an unreasonable disruption or~~
27 ~~inconvenience to existing users, or any adverse effect on future~~
28 ~~use, of utility poles, public easements, and the public~~
29 ~~rights-of-way contrary to the intent of Section 767.5 of the Public~~
30 ~~Utilities Code.~~

31 ~~(4) Whether the franchise applicant has the technical and~~
32 ~~financial ability to perform.~~

33 ~~(5) Whether there is any impact on the franchising authority's~~
34 ~~interest in having universal cable service.~~

35 ~~(6) Whether other societal interests generally considered by~~
36 ~~franchising authorities will be met.~~

37 ~~(7) Whether the operation of an additional cable television~~
38 ~~system in the community is economically feasible.~~

1 ~~(8) Such other additional matters, both procedural and~~
2 ~~substantive, as the franchising authority may determine to be~~
3 ~~relevant.~~

4 ~~(b) Nothing in this section prevents any city, county, or city~~
5 ~~and county from considering the approval or denial of an~~
6 ~~additional cable service franchise in any area of the city, county,~~
7 ~~or city and county, subject to compliance with subdivision (d), or~~
8 ~~the imposing of additional terms and conditions upon the~~
9 ~~granting of the franchise, as the city, county, or city and county~~
10 ~~determines is necessary or appropriate.~~

11 ~~(c) The city, county, or city and county shall make a final~~
12 ~~determination as to whether to grant the additional franchise~~
13 ~~within six months of the application date unless the jurisdiction~~
14 ~~can establish that the applicant has unreasonably delayed~~
15 ~~proceedings designed to consider the matters set forth in~~
16 ~~paragraphs (1) to (8), inclusive, of subdivision (a).~~

17 ~~(d) Any additional franchise granted to provide cable~~
18 ~~television service in an area in which a franchise has already~~
19 ~~been granted and where an existing cable operator is providing~~
20 ~~service or certifies to the franchising authority that it is ready,~~
21 ~~willing, and able to provide service, shall require the franchisee~~
22 ~~to wire and serve the same geographical area within a reasonable~~
23 ~~time and in a sequence which does not discriminate against lower~~
24 ~~income or minority residents, and shall contain the same public,~~
25 ~~educational, and governmental access requirements that are set~~
26 ~~forth in the existing franchise. This subdivision does not apply~~
27 ~~where all existing cable operators certify to the franchising~~
28 ~~authority that they do not intend to provide service within a~~
29 ~~reasonable time to the area to be initially served by the additional~~
30 ~~franchise.~~

31 ~~(e) Notwithstanding subdivision (d), any additional cable~~
32 ~~television franchise granted to a new entrant offering cable~~
33 ~~television service, including, but not limited to, a public utility,~~
34 ~~as defined in Section 216 of the Public Utilities Code, a~~
35 ~~telephone corporation, as defined in Section 234 of the Public~~
36 ~~Utilities Code, or an affiliate of that public utility or corporation,~~
37 ~~for an area within that public utility's or telephone corporation's~~
38 ~~service area or areas shall require that franchisee to serve its~~
39 ~~cable television franchise area within a reasonable time and in a~~
40 ~~sequence that does not discriminate against lower income or~~

1 minority residents, pursuant to Section 53066.2. The additional
2 cable television franchise granted to a public utility, a telephone
3 corporation, or its affiliate shall contain the same public,
4 educational, and governmental access requirements that are set
5 forth in the existing cable television franchise.

6 (1) Within 45 days after the grant of an additional cable
7 television franchise serving the same or any portion of a
8 geographic area served by an existing franchisee, a cable
9 television franchisee existing prior to the grant of the additional
10 franchise or the franchising authority may make a written request
11 to reform any term or terms in the franchise between the
12 franchising authority and the cable television franchisee existing
13 prior to the grant of the additional franchise.

14 (2) Nothing in this section shall apply to any video program
15 offering or service offered via Internet protocol technology that is
16 not deemed to be a "cable service" under Title VI of the
17 Telecommunications Act of 1934, as amended.

18 (f) Pursuant to Section 53066.2, a city, county, or city and
19 county shall assure that access to cable services is not denied by
20 any additional cable television franchise granted to a telephone
21 corporation to any group of potential residential cable subscribers
22 because of the income of the residents of the local area in which
23 the group resides.